

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2790

55th Legislature
1998 Regular Session

Passed by the House February 10, 1998
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1998
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2790** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2790

Passed Legislature - 1998 Regular Session

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Mastin, Sheahan, Costa and Lambert)

Read first time 02/04/98. Referred to Committee on .

1 AN ACT Relating to restitution hearings for juvenile offenders;
2 amending RCW 13.40.150; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 13.40.150 and 1997 c 338 s 24 are each amended to read
5 as follows:

6 (1) In disposition hearings all relevant and material evidence,
7 including oral and written reports, may be received by the court and
8 may be relied upon to the extent of its probative value, even though
9 such evidence may not be admissible in a hearing on the information.
10 The youth or the youth's counsel and the prosecuting attorney shall be
11 afforded an opportunity to examine and controvert written reports so
12 received and to cross-examine individuals making reports when such
13 individuals are reasonably available, but sources of confidential
14 information need not be disclosed. The prosecutor and counsel for the
15 juvenile may submit recommendations for disposition.

16 (2) For purposes of disposition:

17 (a) Violations which are current offenses count as misdemeanors;

18 (b) Violations may not count as part of the offender's criminal
19 history;

1 (c) In no event may a disposition for a violation include
2 confinement.

3 (3) Before entering a dispositional order as to a respondent found
4 to have committed an offense, the court shall hold a disposition
5 hearing, at which the court shall:

6 (a) Consider the facts supporting the allegations of criminal
7 conduct by the respondent;

8 (b) Consider information and arguments offered by parties and their
9 counsel;

10 (c) Consider any predisposition reports;

11 (d) Consult with the respondent's parent, guardian, or custodian on
12 the appropriateness of dispositional options under consideration and
13 afford the respondent and the respondent's parent, guardian, or
14 custodian an opportunity to speak in the respondent's behalf;

15 (e) Allow the victim or a representative of the victim and an
16 investigative law enforcement officer to speak;

17 (f) Determine the amount of restitution owing to the victim, if
18 any, or set a hearing for a later date not to exceed one hundred eighty
19 days from the date of the disposition hearing to determine the amount,
20 except that the court may continue the hearing beyond the one hundred
21 eighty days for good cause;

22 (g) Determine the respondent's offender score;

23 (h) Consider whether or not any of the following mitigating factors
24 exist:

25 (i) The respondent's conduct neither caused nor threatened serious
26 bodily injury or the respondent did not contemplate that his or her
27 conduct would cause or threaten serious bodily injury;

28 (ii) The respondent acted under strong and immediate provocation;

29 (iii) The respondent was suffering from a mental or physical
30 condition that significantly reduced his or her culpability for the
31 offense though failing to establish a defense;

32 (iv) Prior to his or her detection, the respondent compensated or
33 made a good faith attempt to compensate the victim for the injury or
34 loss sustained; and

35 (v) There has been at least one year between the respondent's
36 current offense and any prior criminal offense;

37 (i) Consider whether or not any of the following aggravating
38 factors exist:

1 (i) In the commission of the offense, or in flight therefrom, the
2 respondent inflicted or attempted to inflict serious bodily injury to
3 another;

4 (ii) The offense was committed in an especially heinous, cruel, or
5 depraved manner;

6 (iii) The victim or victims were particularly vulnerable;

7 (iv) The respondent has a recent criminal history or has failed to
8 comply with conditions of a recent dispositional order or diversion
9 agreement;

10 (v) The current offense included a finding of sexual motivation
11 pursuant to RCW 13.40.135;

12 (vi) The respondent was the leader of a criminal enterprise
13 involving several persons;

14 (vii) There are other complaints which have resulted in diversion
15 or a finding or plea of guilty but which are not included as criminal
16 history; and

17 (viii) The standard range disposition is clearly too lenient
18 considering the seriousness of the juvenile's prior adjudications.

19 (4) The following factors may not be considered in determining the
20 punishment to be imposed:

21 (a) The sex of the respondent;

22 (b) The race or color of the respondent or the respondent's family;

23 (c) The creed or religion of the respondent or the respondent's
24 family;

25 (d) The economic or social class of the respondent or the
26 respondent's family; and

27 (e) Factors indicating that the respondent may be or is a dependent
28 child within the meaning of this chapter.

29 (5) A court may not commit a juvenile to a state institution solely
30 because of the lack of facilities, including treatment facilities,
31 existing in the community.

32 NEW SECTION. **Sec. 2.** This act takes effect July 1, 1998.

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